

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT AND TO OBVIATE A
PROVISIONAL DOUBLE PATENTING REJECTION OVER A
PENDING SECOND APPLICATION**

Docket No. 126-317

In re Application of: ELDON ROTH
Application No.: 09/833,866
Filed: April 12, 2001
For: ph ENHANCED MEAT COMPOSITION AND METHOD FOR PRODUCING A
pH ENHANCED MEAT COMPOSITION

The owner*, Freezing Machines, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,406,728 and also disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/965,337, filed on September 27, 2001, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.


In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, and any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant in the event that any such granted patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

Check either 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.


Signature

March 8, 2004

Date

Russell D. Culbertson, Reg. No. 32,124

Typed or Printed Name

512-327-8932

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included - Credit Card Payment Form (PTO 2038) in the amount of \$110.00